



Comptroller General
of the United States

Washington, D.C. 20548

Kerry

Decision

Matter of: KASDT Corporation
File: B-236661
Date: December 21, 1989

DIGEST

General Accounting Office will not disturb an agency's determination to exclude a proposal from the competitive range where the proposal: (1) did not meet the minimum requirements of the solicitation; (2) was so technically deficient that only major revision would render it technically acceptable; and (3) when compared to other submitted proposals, had no reasonable chance for award.

DECISION

KASDT Corporation protests the exclusion of its technical proposal from the competitive range under request for proposals (RFP) No. N62474-86-R-5492, issued by the Department of the Navy for the design and construction of 600 family housing units at the Marine Corps Base, Camp Pendleton, California.

We deny the protest.

The solicitation stated that award would be made to the responsible offeror whose offer, conforming to the solicitation, was determined to be the most advantageous to the government, with technical evaluation factors more important than price. The solicitation listed, in descending order of importance, four technical evaluation factors: (1) Building Design; (2) Site Design and Engineering; (3) Building Engineering and Quality of Materials; and (4) Off-Site Utilities and Road Improvements. Offerors were also advised that failure to comply with the technical requirements in the solicitation could result in an unacceptable proposal.

Of the 9 proposals received, five proposals, including that of KASDT, were determined to be technically unacceptable and were, therefore, determined to be outside of the competitive range. When KASDT was notified of this determination, it filed an agency-level protest which was denied. KASDT then filed a protest in our Office. Acting

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pursuant to 4 C.F.R. § 21.4(a) (1989), the contracting activity proceeded with award of the contract notwithstanding the protest, based on a finding of urgent and compelling circumstances.

Essentially KASDT argues that its proposal could not have been technically unacceptable in that it fully complied with the solicitation.

The record reflects however, that KASDT's proposal was downgraded in the technical area. KASDT's technical proposal was rated low because many aspects of its plan did not meet the requirements specified in the statement of work. In its report, the technical evaluation board (TEB) identified numerous aspects of KASDT's proposal as to each of the four major technical evaluation categories which either constituted undesirable design features or simply did not conform to the project requirements as set forth in the RFP. In the area of building design, as just one example, the evaluators found that: (1) the three-bedroom unit, which was to be handicapped-adaptable, was neither a single story home, nor did the first floor bathroom provide adequate clearance for wheelchair maneuvering; (2) the interior storage area requirements were not met; and (3) the plan did not include eat-in-kitchen space as was required.

KASDT was provided with the TEB's evaluation of its proposal as part of the Navy's report to our Office. The protester does not dispute the TEB's observations, but rather contends that it was not required to provide in its initial proposal the level of detail reflected in the TEB's evaluation since the RFP warned offerors not to submit "unnecessarily elaborate" proposals and stated that it was not the government's intent to receive "complete design proposals" but that, in general, "concept type" proposals were desired. The protester characterizes the latter statement as a request only for "conceptual drawings," which it defines as "thoughts, or an abstract or generic idea generalized for this specific project."

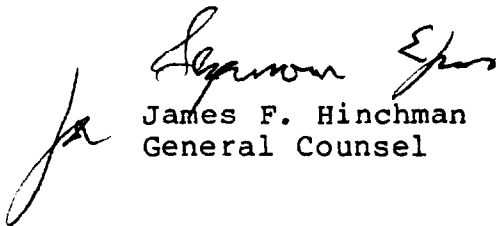
We disagree. First, while the solicitation contained the usual warning against the submission of unnecessarily elaborate proposals, we think as the provision's own text indicates, its purpose is to discourage the use of elaborate, expensively-bound and printed material, and therefore may not reasonably be relied upon by an offeror to fail to adequately address the solicitation's substantive requirements.

Second, as to the extent to which an offeror's proposal had to convey a "concept" consistent with the RFP, we note that

the solicitation did require offerors to submit proposals, including drawings, depicting the site layout (general, grading and drainage, utilities and landscaping); floor plans for each dwelling unit type; typical building elevations, cross-sections, and wall, foundation, floor and roof sections; and typical interior elevations of kitchens and bathrooms. As we indicated above, and as the protester does not dispute, the TEB found numerous discrepancies and nonconformities in the protester's submission compared with the requirements of the RFP. Even in the context of a solicitation which did not require "100 percent complete" drawings and specifications to be submitted until after award of the contract, we think the extent of these deficiencies provided a reasonable basis for downgrading the protester's proposal.

We have consistently held that an agency properly may determine whether or not to include a proposal in the competitive range by comparing the proposal evaluation scores and the offerors' relative standing among its competitors. Allied Management of Texas, Inc., B-232736.2, supra. In the circumstances of this procurement, we find that the agency properly concluded that KASDT's offer had no reasonable chance of being selected for award. Id.

Consequently, the protest is denied.


James F. Hinchman
General Counsel